Volume III.

BRATTLEBORO, Vt. THURSDAY, FEBRUARY 28, 1839.

TRIAL OF ARCHIBALD L. BATES, FOR MURDER,

Before the Bennington Co. Court, Dec. Term, 1838. S. H. BLACKMER, State's Attorney.

Counsel for Prisoner, Harmon Canfield, Daniel Roberts Is and Wm. S. Sauthworth. anot state the time certain, but within three or four years, the prisoner stated that the deceased should not live to enjoy my property, where I now live. At the second time he told me, he put such emphasis on it, I said to him you must remember there is a God in Heaven who rules all take? these things; after I made this remark, he said it was in his power to prevent it, and he should do it. On the night of the 2d of October last, I was coming in from work and met him in the orchard, had some conversation in respect to property, one word brought on another, and he appeared very angry; I started along to go towards the house, he also started and went a few steps, PHILORMAN BATES, Sworntook up a piece of chestnut rail about eight feet long, stepped in great fury to an apple-tree, struck my brother pass the house on the North side; I the tree, broke the rail and said, "you bear no and the hired man drove up to the house and un-more fruit forever." I stepped along, he then loaded potatoes, went to the barn, unharnessed, said this woman, Philorman Bates' wife, should returned to the house, took pails and milked, not live to enjoy that property. I got over the strained the milk, set pails in milk-room and fence, he called out to me in great agitation, washed me, and went into the kitchen. Father "how long will you idolize that yellow haired asked me to go into his room, I followed him into brute of a woman." I asked him if he thought the bed-room. He told me my brother's threats. I was so old and childish that I did not under- We heard report of a gun, I sprang up and saw stand my own business;—he then said I should a man running north-easterly from the window see more or a greater amount of trouble that night where my wife was sitting, he ran betwixt an apthan I ever saw in my life before. I then started ple-tree and stake for hanging clothes, he got on to go towards the house, he went past me, when to the fence; I heard my child cry ran into my r got into my part of the house he stood at the room, the child was falling from my wife's lap to door talking to his mother in great agitation, the floor, I cauched the child before it reached walked backwards and forward, took his Mother's the floor. I gave the child to my father, and tried hand, shook it and bade her a long and fasting to raise up my wife, but was unable, called to my farewell. When he started I got much alarmed, hired man, he helped me lay her on the bed, as and watched him, he started from the door and I passed the window I perceived there was a ball went hastily into the road, crossed the road and hole in the window. I sent the hired man to got into the !ot, seemed to run, appeared urged alarm the neighbors. He went. on by anger or fear, he went straight across towards the place of his residence. From that the gun was fired! time my son Philorman being busy in his concerns, doing chores, I sought an opportunity to talk with him. He went into my room and into window? the bed-room in the north-east corner of the house, the window is on the north side, foot of dow where my wife was shot. the bed towards the window;-Philorman took a

telling him what my fears were in respect to himself and family, when there was the report of a gun at the north side of the house, west of us.— you stood ? We both sprang on our feet and saw a man run- A.—Twe ning; my son Philorman being nearest the window, he had the first sight of him; I saw the man after he had a chance to move from the place where the gun was fired, about twenty feet, he was my brother, the prisoner; I knew him when was within six feet of an apple-tree on the north I saw him—he ran about Is feet before to the long of the book I saw him sent till be came to the fence by the road, he appeared to jump over the fence, ran down a road and skulked behind brother? the sud of a wall under some butternut-trees, I then started out and went to the fence determinimotion. He runs lower than common men. I ed to know who it was, as I reached the fence cannot be mistaken. heard the infant cry, I turned, went in and saw the woman on the floor and discovered that she was shot, her husband trying to raise her up, ap- I did not remove her he would be the death of peared to be unable, called for help, they got her her if he suffered his own life in consequence.up and laid her on the bed. Q .- How long did she live ?

seat at the foot of the bed, I at his left hand

farthest off from the window; I had just closed

A .- A short time, an hour, perhaps more. Q .- Did the prisoner at the time he was in the orchard take up an apple?

A .- He did, bit it and threw it down.

I omitted saying after he told me the woman should not live, he stretched out his arm, and said consequence of his threats? "Oh if I durst." His appearance struck me sensibly that some of the family were in imminent danger.

Q .- How many times had he made these threats? A .- Twice.

Q .- Had he been on intimate terms with the family?

A .- He had not been in the room where Philorman lives for two or three years, but in mine. Q .- Did you know the man who ran past the window?

A .- No. From my alarm and the motion of the man I was forcibly struck with the idea that it was the prisoner at the bar.

Cross Examination. Q.—When and where were the previous threats

made?

A .- I cannot state. Q.—Did you relate at the examination what you have now said, of prisoner's language about

the yellow-haired brute, biting the apple and breaking the rail ! A .- I have since recollected some things that I did not remember at the examination.

Q .- Did you not say that you could not give hand the exact language of the prisoner only the idea ? A .- I did not pretend to give it word for word,

but the substance. Q .- You say the prisoner was very much agitated !

Q .- Did he appear to be out of his head? A .- No.

Q .- Did you not on examination say you did not see the individual until he was in the shade of

said under shade of apple-tree. Q .- How did you know the gun was fired near the house?

A .- It was my impression. Q .- In what direction is Sylvanus Bates'

house !

A .- Near northerly. Q .- In what direction did the man run?

A .- In a north-easterly direction, not exactly.

Q .- Where is the wall? -On side of the house.

house ? Q .- Where is your door yard gate ?

the house. Q .- Where did your son go when he parted from his mother?

A .- Northwardly

Q.—Did you take a candle into the bed-room when you went in with Philorman? A .- No.

Q .- Are you father of respondent !

A .- I am so called. Q .- Her your sun applied to you for hand go

Q .- Did you furnish them?

Q .- When prisoner went out of the house af-

A .- An Easterly course. . Q .- What is the distance to Sylvanus Bates !

A .- About 200 rods. Q .- What time was it ! A .- About sunset.

Q .- How long before the woman was shot? A .- She was shot a little after 7 o'clock, P. M.

When I was returning from my work, I saw

Q .- At what time did you see the man after

A .- I took but a step. Q.-What distance was the man from the

A .- He was about 12 or 15 feet from the win-

Q .- In what position was he?

A.—He was partly upon a wheel and a run. Q .- Was he in shade of trees?

Q .- What distance was the man from where

A .- Twenty-five feet.

Q .- Did you know the man?

A .- I have no reasonable doubts, the night was very light, the man had a gun in his hand, it

Q .- From what did you judge it to be your

A .- From his appearance, his look and his Q .- What do you know of his previous threats?

A .- About three or four years since he said if The grudge has never been removed, and he has ever shown the same feelings. Q. What did you do after this threat?

We removed our lodgings to another room A. about a week afterwards, to a room where we thought we should be more safe.

Q. Did you ever remove from the house in

Yes; for about a week. When you saw the man run had he a gun in his hand? A. Yes.

How large is the bed-room where you and your father were? It is eight feet one way, larger the other.

Did you and your father arrive at the window together? No. I arrived at the window first.

How do you know he had a gun? I saw it.

Could you tell whether the barrel of the gun was bright? A. It had a brownish glisten.

Was you not liable to be mistaken? Q. We are all liable.

Would not any person under such circum-Q. stances have ran as he did?

A. I never saw a man run like him; it was a low squat run. How high were the windows from the Q.

ground?

A. 3 feet, perhaps 3 1-2. Q. In what position was the gun?

fence, and you refuse ? Yes; I thought it my duty.

without kneeling? A. I think he could.

Q. Have you not said that you would do all in your power to procure your brother's convic-

A. No. HEMAN DAVIS, Sworn-I live with Philorman Bates, on the 2d of Oct. quarters. 1838, the sun about half an hour high, I saw Mr Archibald L. Bates about half way between the ing ? house and orchard. Mr Philorman Bates and myself went to the barn and unharnessed, I there saw him in about the same place going towards the house :- I went in ; Mrs Harriet Bates asked me to take her child, which I took and sat down by the window; the clock struck seven while I held the child. Mrs Bates sat at the end of the table; she then took the child, I went out, washed Q.—What distance is the apple-tree from the ouse? me, and while out, heard a gun; thought it a rifle very lightly loaded. Thought it was some shoe was wet? Q.—Where is your door yard gate?

boy going by and fired a squib. I went in, PhiA.—From West end of house gate is West of lorman said his wife was shot. The child was L. Bates had been there all the evening? nursing; Philorman said, carry the child to my Mother :- I did. I helped Philorman lay his wife on the bed. I then went to John Niles's man Bates's and from there to Sylvanus Bates's? and alarmed them.

How did you know it to a rifle ! A rifle gives a shaper sound than a shot

bald L. Bates' Was you knowing

A. No.
Q. Are not some of your neighbors in the

habit of going 'coor hunting ? Not that I loow of. Where was the old lady, and had she a

She was in ler room, and had a light. GARDNER W. BATES, Sworn-

Q. How old areyou? Eleven years

Did you see Archibald L. Bates on the night of the second of October? A. Yes, I saw hin take a rile from the hooks

and go towards the word-shed. Q. Where did the life hang ? A. Over head in the kitchet. It belongs to

Sylvanus Bates. Q. Is this the rifle ?

Yes. Q. How long did he stay then he came in?

I do not know. first came in ! A. Yes.

Archibald L. Bates? A. Five or ten minutes. It was going right East of the South door and soing West with a Bates?

rifle in his hand. Did you see him again hat night? Q.

Who was in the room when he took the

Minerva, Almira, and L

Did you, at the examination, say you saw Archibald L. Bates out of does? A. No, I did not think of it.

How do you know he went into the woodhouse ? I looked out of the window.

Q. Where was you when Rollin Blackmer came in ?

A. Sitting in the house.

Q. Did you see Archibald L. Bates with a gun in his hand? A. Yes, I was not more than a rod or a rod and a half from him?

I do not, I believe it was a straw hat. MINERVA BATES, Sworn-Says she saw Archibald L. Bates take the gun

from the hooks and go towards the wood-shed. Q. When did you see him again? A. In a short time he came in and stayed a little while and then went out. Says Archibald L. Bates had been in a short time when Rollin

Blackmer came. Q. When did you see the gun again ? A. Next morning. Archibald L. Bates sat in a chair when Rollin Blackmer came in and

Bates said "is it possible that life has left that should go into Philorman's room alive. woman?" His wife said to him, "what an awful JOSHUA B. MATTESON, Swornthing this is!" He replied, "justice must take place some time or other.

you heard these expressions?

I think I did not, for I did not think of it. What was Archibald L. Bates' appearance?

No different from usual. Was you looking at him? Q.

Cannot tell. A. What time did he count the last time? It was candle light.

Had the family been to supper?

Was Mr Bates in the habit of using this ed it to his own satisfaction. gun when he pleased? He was.

A. No.

in the night?

ROLLIN G. BLACKMER, Sworn-Says he heard some one call for his father; it was John Niles's son. He said that somebody had shot Philorman Bates's wife. When I rode in front of the house, Benjamin Olin and John Q. Did he apply to you for help for his de- into the kitchen, told the family that Philorman Bates's wife was shot. I asked if Archibald L. of the ball. Bates was there? He said yes, spoke loud .-Q. Could be have hit the woman by firing, Sat a minute or two, saw Archibald L. Bates sitlorman Bates's wife was shot. He said, "is it possible that life has left that woman?" he re- the back part of the head above the left ear, peated it. Just after I went in I observed he turned downwards, apparently rolled down to the had some dirt on the right knee of his pantaloons. He crossed his legs the left over the right. His in centre of the brain. left shoe was wet two-thirds of the way up the

Did you notice any thing about his breath-

I thought he breathed barder than usual. Did he look up while you was in?

I think not. Q. Is he your relative?

A. Ten minutes,

How far do you live from Sylvanus Bates's? About a mile Did you at Shaftsbury testify that the left

A. I think I did. Did you ask Sylvanus Bates if Archibald

A. I did and he said he had not. How long did it take you to go to Philor-

SYLVANUS BATES, Sworn-

Q. Do you know this rifle ? A. Yes it is mine; I usually kept it hanging being about the house. In the anternoon the prisoner told then rises a fittle, then descends the the Ca the night of the Anternoon came to direction of Philorman Bates's with buckthorn Q. Did you examine the hole in the the barn; in the morning a short ramrod was bushes which he laid on the wood-pile. After found at the barn door; he scythe I worked with this he came in, went into the east-room, past out the window next morning, it would just go thro' again while I was at supper. After supper I went without a patch. Q. If you put the same quantity of powder into the east-room and tarried there till Rollin G. ter parting with his mother what course did he into a smooth-bore gre, will it not make the same Blackmer came in, ten minutes before that I heard same patch that Mr Fisk handed to him. some one in room, looked, saw that it was Archi- PELEG FISK, Swornbald L. Bates.

Rollin Blackmer asked if Archibald L. Bates entry or up stairs. I went out at the east door. dow. Archibald L. Bates was sitting back of the stove between that and the fire-place. Blackmer told the reply.

Where did you find the gun? Q.

A. I found the gun in the east room behind the door.

Q. Where did you find the ramrod? About a rod from the hog-pen. Q. Are these balls and patches suitable for that rifle ? A. Yes.

Q. Should you think that ball similar?

A. It appears to be about the same.

Q. What is the difference between the report of a gun and a rifle?

A rifle makes a sharper noise. Did you find another gun loaded in the A. I did. I saw that night the gen was

primed. Q. How long was it before that that you saw the kitchen?

Q. Did you before examination, say you look-West, on the South side of the house. He was ed over your shoulder and saw Archibald L. East of the South door and loing West with a Bates? A. I did.

Is that a smooth or creased rifle?

Yes. Α.

It is creased. Is it different from other guns? I presume there are other rifles in the

neighborhood that carry the same sized ball. Q. Is this cloth such as is commonly used for patches?

A. Yes. Q. Do you know of his using the gun the Sunday before? A. He and my son went hunting a short

time before, and had this gun. Thinks it was three-fourths of an hour from the time Archibald L. Bates left home to the time of his return. Have myself travelled to Philor-

man Bates's and back in half an hour.

JOSHUA W. MUNROE, Sworn-Says he found a powder-horn, seventeen balls, and a moutite of tox-clath on the of October last-arrested him a little past eight o'clock. I went that evening to Philorman Bates's directly. Mr B. F. Olin directed me to S. Bates's and see if Archibald L. Bates was there, ing in a near relation to you by affinity, has been and bring him immediately. I went, found him apparently asleep, I told him I wished him to go and sent to her account; and this done to gratify to Philorman's. He asked who wanted him, I told him B. F. Olin for one. He said he should not go for B. F. O. I told him he would. He was dissatisfied with the manner, in which the room. I told him I did not know. After I got was actuated by a desire or wish to participate in told him that Harriet was killed. Archibald L. Before we got to the house he said he never

Says Archibald L. Bates has lived with him. I heard him one morning when looking out of Q. Did you testify before the examination that my window say, "that he wished God in his mer- prerogative of pardon will be exercised in your cy would relieve Philorman of his burden."been. He said in the orchard eating apples.-We were once talking about Strang's shooting

DR. HORACE MAY, Sworn-

ELLIOTT BROWN, Swornlower part of the head; found a piece of bone

Witnesses on the part of the Prisoner. CLARK BATES, Sworn-

I was fourteen years old last September, I went a hunting with Archibald L. Bates the Sunday before the murder, and I think Archibald carried the rifle and balls, now in court. Archibald carried the ammunition for the gun in court. B. F. OLIN, Sworn-

Says the distance from Sylvanus to Philorman Bates's is about a mile and a quarter by the road. To cross in a direct line from road at Philorman's to Sylvanus Bates is two hundred rods, Sylvanus's is about fifty rods West. It is thirty-eight feet from the corner of Philorman's house to the West door-yard fence, forty-five feet from the side of the house to the garden fence, garden is West of the house. The apple-tree is twenty-seven feet North of East corner of the Thinks when heard of the murder of you are dead, and may God Almighty have mer-Mrs Bates the moon was three hours high and

shone very bright. East of the house is low wet ground-towards Sylvanus Bates's land is level sixty or seventy rods, then descends North-west, on the hooks. In the afternoon the prisoner told then rises a little, then descends theth-west a-

> Q. Did you examine the hole in the Vidow A. I tried to put one of the bullets through

Says the same patch produced in court is the Says he thinks the patch produced in court is

the same he found on the morning of the 3d of was in the house. I told him he was in the south October, about a foot and a half from the win-The case was committed to the jury at about

nine o'clock in the evening, by Chief Justice him Philorman's wife was shot; I did not hear Williams, in a terse and feeling charge; the most important part of the testimony was repeated, and presented in its true light to the jury ;the States Attorney discharged his arduous and responsible duties to the satisfaction of all :- the counsel for the prisoner, Messrs. Canfield and Roberts, won the regard of all present, by their feeling and ingenious defence of the prisoner; no effort was omitted on their part, in behalf of the accused,—but the testimony was too clear and explicit for their efforts to avail him; guilt of the deepest die was shown throughout the whole testimony. The jury after an absence of about fifteen minutes, returned a verdict of GUILTY.

dicted by the Grand Jury for the crime of MUR-DER! A trial has been had by a petit jury, in which you was ably and ingeniously defended by learned-counsel, and every thing urged in your behalf which the law or testimony would warrant. That jury have declared you guilty. In the opinion and by the verdict of twenty-four judicious and disinterested freeholders, men who could have no other motive than to investigate the truth and determine accordingly, you are convicted of a most aggravated murder, one attended with circumstances, which strike the mind with horror, and is calculated to alarm and carry terror wherever it is heard of. It is unnecessary for me to recall to your mind the circumstances which have placed you in this situation, and to harrow up your feelings, by a recital of the evidence of your guilt. It is sufficient to say, that you stand before us convicted of murder, and that the proof of your crime is too strong to be resisted. It remains for the court to award the last and the highest penalty known to the law, and to pronounce the sentence which consigns you to an ignominious death. To award a sentence which sends a fellow mortal into the presence of his Maker and his Omniscient Judge is a painful and from the performance of world and from the performance of world and some secused could I consult my own feelings alone; but it is one which as a Minister of justice I may by your means, almost instantly deprived of life a malignant and depraved disposition. It is neither excuse nor palliation of the offence, that you asked if he should have to go into his brother's property of your father was managed. If you him there I searched him and found these things.

Before we got to the house he said he never perity of your father, your brother or your sisterin-law, it is but another proof that avarice and the love of money is the very root and source of bitterness and evil. We can give you no encouragement that the

behalf. Nothing was disclosed on the trial which About three weeks before the death of Mrs Bates. can justify you in entertaining any such hope.-He was in the habit of being out in evenings The crime is so great, and the transaction so aphalf an hour. I used to ask him where he had palling as to forbid all hopes of your escaping the punishment, which most civilized nations have appropriated to the crime. The sentence of the Whipple, and he said he believed a ball would go law will limit the days of your continuance on through a window and make no larger hole than earth, and fix the period when you must appear its own size. This he said to me several times. in the presence of your God, who cannot be de-I told him I had heard that glass would cause a ceived as to your motives, thoughts, or actions .ball to glance. He said it would not, he had tri- The victim of your crime, was hurried from this world, with scarce an opportunity of uttering a prayer or a supplication for mercy. You will Says on the evening of the 2d of October, he have time for reflection, for penitence, and con-Q. Did you ever before know him to take it was called to Philorman Bates's. Mrs Bates was trition; and if with a true and sincere faith; the night? cloth, found she was wounded with a ball, above transgressions, and of this most foul and aggrathe right eye. She lived about one hour and a vated murder, you truly and sincerely repent and half. After laying back the integuments which cast yourself on the mercy of Gon, you may cover the skull found that it was wounded extern- through the merits of the Redeemer attain forally. On dissecting, found a leaden ball in the giveness of your sins. Goilty as you are, you back part of the head, and a bit of brain and may yet find mercy and pardon. In the prison It was swinging I should say in his right Niles were in the road, and requested me to go skull. The course of the ball was backward where you will remain from this to the day of and see if Archibald L. Bates was there. Went and upward and downwards. The portion of the your execution, you will have time and opportubone shown was lodged in the brain by the force nity for reflection. In silence and in solitude, you can recall to your mind the events of your life, your transgressions, and your crimes. Let Sat a minute or two, saw Archibald L. Bates sit-ting by the fire-place, went in and told him Phihad passed through the brain obliquely, struck offences. Should the voice of blood cry to you from the ground; should your imagination call before you the image of the unfortunate being you so cruelly murdered; should the scenes of guilt and misery render this silence and solitude almost insupportable, and in the agony of a convicted and wounded conscience you should be led to exclaim with the guilty of old, "my punish-ment is greater than I can bear;" Remember, your Heavenly Father has declared, that they who seek him in the way of his appointment shall surely be found of him; and that your Redeemer declared to the penitent thief on the last day of his existence, that he should be with him in Par-

Hearken to your sentence. The sentence of the Law, which the court award is, that you be taken from the bar to the prison from whence you came and be there kept until Friday the eighth day of February next, and on that day between the hours of ten in the forenoon and three in the afternoon at a place of execution to be selected by the Sheriff, you be hanged by the neck until cy on your soul. (See next page.)